

Appraisal Institute Summary of Regulation No. 6

Effective January 1, 2005

Copyright © 2005 by the Appraisal Institute.
All rights reserved.
Printed in the United States of America.

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopy, recording or otherwise, without the prior written consent of the publisher.

Appraisal Institute

Summary of Regulation No. 6*

- I. The **Director of Screening** of the Appraisal Institute (“Director of Screening” or “Director”) receives referrals concerning possible violations of the Code of Professional Ethics or Standards of Professional Appraisal Practice. Referrals are received from anyone (clients, lenders, Appraisal Institute Members, regulators, and even anonymous individuals).
 - A. If the Director of Screening determines that a Member may have violated the Code of Professional Ethics, the Director will refer the file to the Ethics Administration Division.
 1. The Director may refer the file to the Ethics Administration Division for appointment of a Grievance Committee and further processing for possible violations of the Code of Professional Ethics other than Ethical Rules 1-2, 2-3(b), 2-3(c), and 2-3(d). (See section III of this summary.)

or
 2. The Director may refer the file to the Chair of the Ethics Administration Division if the file concerns a possible violation of an Ethical Rule under Canon 5, which concerns advertising, solicitation, use of designations or emblems, referral fees, resumes, and statements of qualifications. (See section II, B of this summary).

or
 3. The Director must refer the file to the Chair of the Ethics Administration Division if the file concerns a possible violation of:
 - a. Ethical Rule 1-2, which concerns engaging in misconduct that leads to conviction of a crime involving fraud, dishonesty, false statements or moral turpitude.
 - b. Ethical Rule 2-3(b), which concerns failure or refusal of a Member to promptly submit relevant documentation or information that has been requested by the Appraisal Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents.
 - c. Ethical Rule 2-3(c), which concerns failure or refusal of a Member to promptly answer all relevant questions when requested to do so by the Appraisal Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents.

* This summary is intended only to provide an overview of the primary procedures of Regulation No. 6 effective January 1, 2005 and does not cover every detail, nuance, alternative, right, or responsibility under the Regulation.

- d. Ethical Rule 2-3(d), which concerns failure or refusal of a Member to appear for a personal interview or participate in an interview conducted by telephone when requested to do so by the Appraisal Institute, an Appraisal Institute committee or member thereof, or one of their duly authorized agents.

(See section II, A and C of this summary.)

- B. If the Director of Screening determines that a Member may have violated the Standards of Professional Appraisal Practice, the Director may notify the Member of concerns relating to such possible violations for educational purposes.
- C. If the Director of Screening determines that a Member may have been convicted of a serious crime committed prior to becoming a Member, or knowingly made false statements, submitted false information, or failed to fully disclose information requested in an application for admission to membership, candidacy or affiliation, the Director of Screening shall refer the matter to the Ethics Administration Division for appointment of a Grievance Committee and for further processing in accordance with Regulation No. 6, as modified to reflect the nature of the alleged violation.
- D. If the Director of Screening finds no legitimate basis for referral to the Ethics Administration Division and no legitimate basis for notifying the Member of concerns relating to possible violations of the Standards, the file is closed.

II. The **Chair of the Ethics Administration Division** handles possible violations of Ethical Rules 1-2, 2-3(b), 2-3(c), and 2-3(d), and Ethical Rules under Canon 5.

A. Possible violations of Ethical Rule 1-2

- 1. If the Chair of the Ethics Administration Division receives either: (a) a certified copy of a court document indicating that a Member has entered a guilty plea to having committed a crime of the type referred to in Ethical Rule 1-2 together with information indicating that such Member has not as yet been convicted of such crime, or (b) a certified copy of a court document indicating that a Member has been found guilty by a judge or jury of a crime of the type referred to in Ethical Rule 1-2 together with information indicating that all rights to appeal from such conviction have not been exhausted, the Chair of the Ethics Administration Division will notify the Member in writing that his or her membership privileges have been suspended. The Member has a right to appeal the automatic suspension but failure to file an appeal brief constitutes an abandonment of the appeal.
- 2. If the Chair of the Ethics Administration Division receives a certified copy of a judgment indicating that a Member has been convicted of a crime of the type referred to in Ethical Rule 1-2 and evidence indicating that all rights to appeal the conviction are exhausted, the Chair of the Ethics Administration Division shall notify that Member in writing that he or she will be expelled from membership. The Member has a right to appeal the automatic expulsion but failure to file an appeal brief constitutes an abandonment of the appeal. Membership privileges are suspended during the appeal process.

If a Member resigns or is terminated for failure to pay dues while subject to a pending case in which the Chair of the Ethics Administration Division has notified the Member of disciplinary action for violation of Ethical Rule 1-2, the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the Member was the subject of a peer review proceeding.

B. Possible violations of Ethical Rules under Canon 5

1. If the Chair determines that a violation of an Ethical Rule under Canon 5 has occurred, the Chair may take one or more of the following actions:

- a. The Chair may require that the subject Member provide written assurances that such violation will cease.
- b. The Chair may require that the subject Member provide proof that such violation has been corrected.
- c. The Chair may provide the subject Member with the right to accept an admonishment.

If the subject Member does not request review by a Grievance Committee, comply with the Chair's request(s) or affirmatively reject an admonishment (if offered), an admonishment will be entered into the subject Member's disciplinary record.

2. If the Chair determines that a violation of an Ethical Rule under Canon 5 did not occur, the file is closed.

C. Possible violations of Ethical Rules 2-3(b), (c), and (d)

If the Chair of the Ethics Administration Division determines that a Member violated Ethical Rule 2-3(b), (c), or (d) or if the Chair receives a report from a Grievance Committee finding that a Member violated Ethical Rule 2-3(b), (c), or (d), the Chair shall notify the Member that he or she will be expelled from membership. The Member has a right to appeal the automatic expulsion but failure to file an appeal brief constitutes an abandonment of the appeal. Membership privileges are suspended during the appeal process.

If a Member resigns or is terminated for failure to pay dues while subject to a pending case in which the Chair of the Ethics Administration Division has notified the Member of disciplinary action for violation of Ethical Rule 2-3(b), (c), or (d), the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the Member was the subject of a peer review proceeding.

III. After the **Ethics Administration Division** receives a file from the Director of Screening, the **Ethics and Counseling Department** appoints a Grievance Committee from the region in which the alleged violation occurred, unless the Department determines that the best interest of the Appraisal Institute requires appointment of committee members from another region. The subject appraiser may file an unlimited number of challenges for cause requesting the dismissal of Grievance Committee members on the grounds that they have a personal interest in the case or are otherwise prejudiced

against the subject appraiser. Such challenges must include supporting facts and reasoning. The Ethics and Counseling Department determines whether to grant such challenges.

The Grievance Committee has a dual capacity. In the early investigation stage, it functions similarly to a grand jury, determining if sufficient evidence exists to charge the subject Member with one or more violations of the Code of Professional Ethics. If a case goes to the Hearing level, the Grievance Committee functions as a prosecutor, and presents its evidence to the Hearing Committee.

- A. The **Grievance Committee** investigates the subject matter of the file to determine whether the subject Member violated the Code of Professional Ethics. The Grievance Committee then prepares a written report and recommendation.
1. Except in cases where the Grievance Committee concludes that the subject Member violated Ethical Rule 2-3(b), (c), or (d), the Grievance Committee must recommend one of the following in its report to the Ethics and Counseling Department:
 - a. Close the file with no further action;
or
 - b. Refer the file to the Screening Staff for notification of the subject Member of concerns relating to possible violations of the Standards of Professional Appraisal Practice;
or
 - c. Give the subject Member the right to accept one of the following disciplinary actions:
 - 1) Admonishment is a warning calling the attention of the Member to the violation, and is entered into the Member's record for a period of five (5) years. The Grievance Committee may offer an educational alternative in lieu of admonishment. If an educational alternative is offered, accepted and successfully completed, the admonishment will not be effective and the fact that the educational alternative was successfully completed will be entered into the Member's record for a period of one (1) year.
or
 - 2) Reprimand is a serious warning calling the attention of a Member to the violation and is entered into the Member's record for a period of ten (10) years. The Grievance Committee may offer an educational alternative in lieu of reprimand. If an educational alternative is offered, accepted, and successfully completed, the reprimand will not be effective and the fact that the educational alternative was successfully completed will be entered into the Member's record for a period of one (1) year.
or

- 3) Censure is a formal expression of severe criticism and disapproval for the violation. This disciplinary action is published in both print and electronic media and the chapter of the Member is notified. It is entered into the Member's record for a period of thirty years. The Grievance Committee may offer an educational alternative in lieu of censure. If an educational alternative is accepted and completed, the censure will be reduced to admonishment and placed on the Member's record for a period of five (5) years.

or

- 4) Suspension of a Member is a temporary revocation of the privileges (but not the obligations) of membership for up to two (2) years (from the date of the Member's compliance with the suspension order). This disciplinary action is entered into the Member's record for a period of thirty (30) years; the disciplinary action is published in both print and electronic media and the chapter of the Member is notified.

or

- 5) Expulsion of a Member is a complete termination of membership in the Appraisal Institute. This disciplinary action is entered into the Member's record for a period of thirty (30) years; the disciplinary action is published in both print and electronic media and the chapter of the Member is notified.

2. Upon receipt of a Grievance Committee report, the Ethics and Counseling Department will review the file and report to determine whether the investigation was adequate and whether the report is in conformance with Regulation No. 6. The Ethics and Counseling Department will also send a copy of the report to the Regional Member for review. If the report is approved and the Grievance Committee recommended a disciplinary action, the Ethics and Counseling Department will notify the Grievance Committee of the subject Member's prior disciplinary record, if any. The Grievance Committee may then change its recommendation as to disciplinary action and any educational alternative.

If a Member resigns or is terminated for failure to pay dues while subject to a pending case in which a Grievance Committee has offered a disciplinary action, the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the Member was the subject of a peer review proceeding. Such publication will also occur if a Member resigns or is terminated for failure to pay dues while a case is pending in which the Chair of the Ethics Administration Division has notified the Member of disciplinary action for violation of Ethical Rule 1-2, 2-3(b), 2-3(c), or 2-3(d).

3. If the subject Member is offered a disciplinary action, the subject Member may request reconsideration of the Grievance Committee's findings and recommendation provided that the subject Member sets forth good cause. The Grievance Committee may then reconsider and revise its findings and recommendation.

If the Grievance Committee still recommends a disciplinary action, the subject Member has the right to request a formal Hearing. A formal Grievance Committee Complaint will then be drafted.

4. If the Grievance Committee concludes that the subject Member violated Ethical Rule 2-3(b), (c), or (d) which generally relate to a Member's obligation to cooperate with the Appraisal Institute, Appraisal Institute committees or members thereof, or one of their duly authorized agents, special procedures apply. Violation of E.R. 2-3(b), (c), or (d) will result in automatic expulsion from membership in the Appraisal Institute subject to the right of appeal.
- B. The **Hearing Committee** is appointed by the Ethics and Counseling Department after approval of the Grievance Committee's final Complaint. The members of the Hearing Committee are appointed from the subject Member's home region, unless the Ethics and Counseling Department determines that the best interest of the Appraisal Institute requires appointment of members from another region.
1. The accused Member may file two types of challenges to the Hearing Committee members:
 - a. The accused Member may file one (1) peremptory challenge requesting the dismissal of one Hearing Committee member. The accused Member need not state any facts or reasoning in support of such a challenge, and the Ethics and Counseling Department must permit the challenge if the accused Member has followed the proper procedures;
 - b. The accused Member may file an unlimited number of challenges for cause requesting the dismissal of Hearing Committee members on the grounds that they have a personal interest in the case or are otherwise prejudiced against the accused Member. Such challenges must include supporting facts and reasoning. The Ethics and Counseling Department determines whether to grant these challenges.
 2. The accused Member may file with the Chair of the Hearing Committee an answer to the Complaint that addresses the allegations of the Complaint and raises affirmative defenses. If the accused Member believes that the Grievance Committee Complaint lacks specificity, the accused Member may also file a Request for a Bill of Particulars to compel the Grievance Committee to supply additional information that will enable the accused Member to understand fully the nature of the charges and prepare a defense. The Hearing Committee rules on the validity of such requests.
 3. At the Hearing, both parties have the right to be heard; to offer relevant testimony of witnesses; to cross-examine the other party and its witnesses; and to present relevant documentary evidence. The Grievance Committee has the burden of proof to establish, by the greater weight of the evidence, that the accused Member violated the Code of Professional Ethics.

The accused Member has the right to be represented by legal counsel provided that the accused Member notified the Hearing Committee of his or her intentions to do so within sixty (60) days from the date that the formal Grievance Committee Complaint was filed. If the accused Member will have legal counsel present at the Hearing or if the accused

Member has a juris doctor degree, the Grievance Committee may also have counsel present at the Hearing. The Hearing Committee may request legal counsel regardless of whether the accused Member has legal counsel.

4. If the Hearing Committee determines that the accused Member violated the Code of Professional Ethics, the Committee may consider all prior disciplinary actions against the accused Member and may recommend the disciplinary action of admonishment, reprimand, censure, suspension, or expulsion. The Hearing Committee may further recommend an educational alternative in lieu of any disciplinary action except suspension and expulsion.
 - a. If the accused Member accepts the educational alternative but fails to complete it, the specified disciplinary action takes effect and becomes part of the accused Member's record.
 - b. If the accused Member accepts the educational alternative in lieu of admonishment or reprimand and successfully completes it, the disciplinary action does not become effective.
 - c. If the accused Member accepts the educational alternative in lieu of censure and successfully completes it, the censure is reduced to admonishment and the admonishment becomes part of the accused Member's record.
 - d. If the accused Member does not accept the educational alternative, the specified disciplinary action takes effect and becomes part of the accused Member's record.
5. If the Hearing Committee determines that the accused Member did not violate the Code of Professional Ethics, the Committee incorporates this determination into a written decision, which is sent to the parties and the Ethics and Counseling Department.

IV. An Appeal Board will be appointed by the Chair of the Ethics Appeals Panel if the accused Member exercises the right to appeal a Hearing Committee decision recommending disciplinary action or automatic suspension or expulsion for violations of Ethical Rules 1-2, 2-3(b), 2-3(c), and 2-3(d); however, failure to file an appeal brief constitutes an abandonment of the appeal. An Appeal Board may consider the matters raised by the parties' briefs and oral arguments in choosing one of four possible courses of action.

- A. Affirm the determination of the Hearing Committee that the accused Member violated the Code of Professional Ethics *and* approve the disciplinary action recommended by the Hearing Committee.

If the disciplinary action is not suspension or expulsion, an Appeal Board may offer the accused Member the opportunity to accept an educational alternative in lieu of the specified disciplinary action.

or

- B. Affirm the determination of the Hearing Committee that the accused Member violated the Code of Professional Ethics *but* reduce the penalty recommended by the Hearing Committee.

If the disciplinary action is not suspension or expulsion, an Appeal Board may offer the accused Member an educational alternative in accordance with the procedures listed in “A” above.

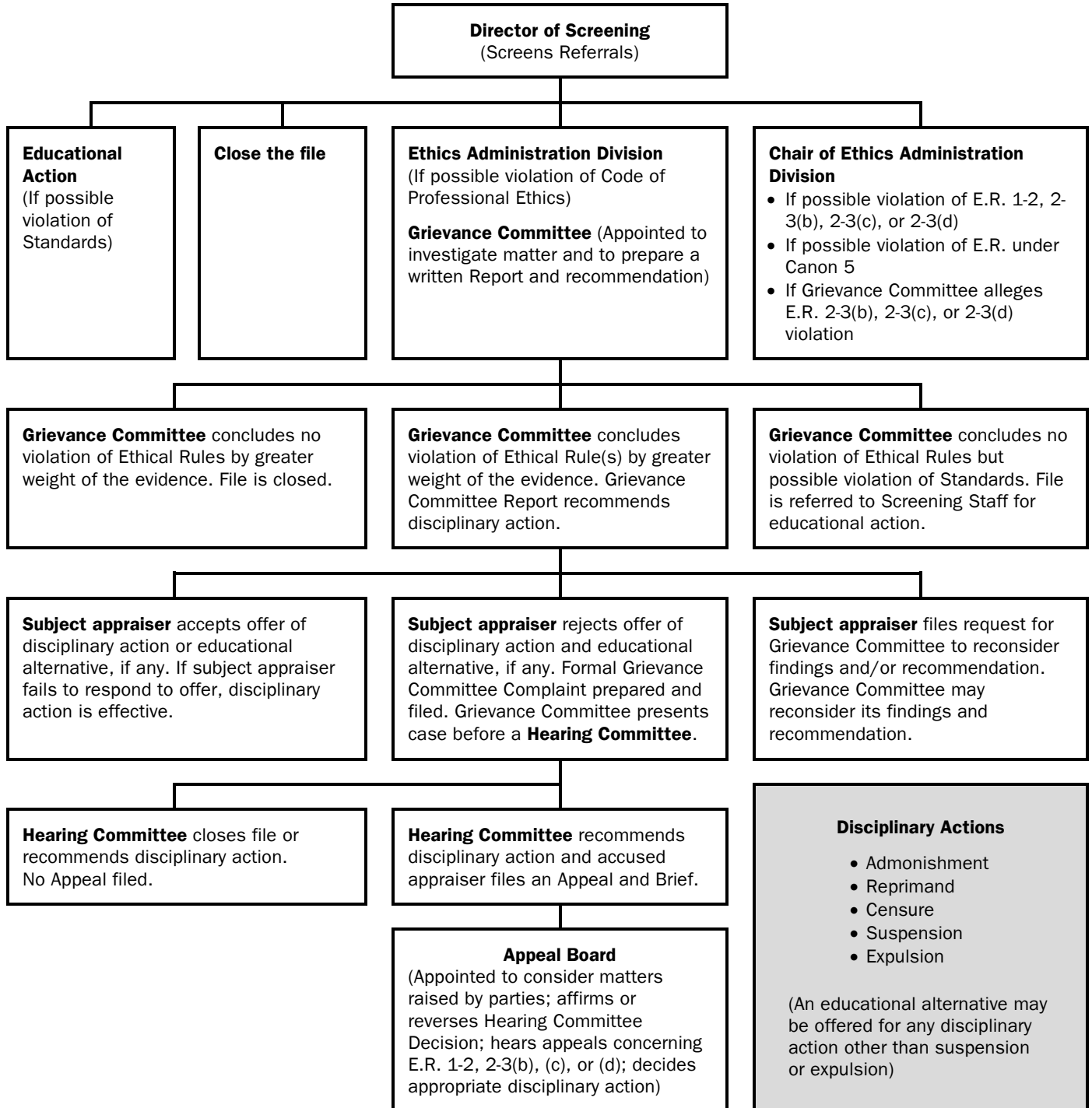
or

- C. Reverse the Hearing Committee decision and close the case.

or

- D. Remand the matter to the Hearing Committee for a new Hearing with any instructions that the Appeal Board considers appropriate.

**Procedural System for the Enforcement of the
Code of Professional Ethics & Standards of Professional Appraisal Practice***



* This chart is intended only to provide a general overview of the procedures and does not include all the alternatives available at each stage of the process.

